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## CHRIS JEREMY LAI ZHE AHN v. KETUA PENGARAH JABATAN PENDAFTARAN NEGARA

HIGH COURT MALAYA, KUALA LUMPUR
AMARJEET SINGH SERJIT SINGH J
[ORIGINATING SUMMONS NO: WA-24-11-02-2022]
B 26 DECEMBER 2022

**Abstract** – *An application for a change of name under reg. 14 of the National Registration Regulations 1990 ('1990 Regulations') must be given effect to by the National Registration Department, if the reasons furnished for doing so is not illegal and the applicant had complied with all the requirements of reg. 14 read with reg. 4 of the 1990 Regulations. The function of the panel established by the Department is purely administrative; only compliance with the regulations is required.*

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***CIVIL PROCEDURE:*** *Declaration – Application for – Declaration for change of name in identity card – Whether valid reasons given – Whether National Registration Department has to give effect to application – Whether fulfilled requirements for change of name – Whether applicant entitled to seek declaration – National Registration Regulations 1990, regs. 4 & 14*

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The plaintiff's biological father and mother were divorced when he was four years old and since then he lived with his mother. His mother subsequently remarried and the plaintiff's stepfather moved in and lived with the plaintiff's mother and the plaintiff. The plaintiff, who was affected, as a child, by the
F divorce, received love and affection from his stepfather who treated him like his own son. The plaintiff had renounced his father's name and rejected any inheritance from his father and had taken his stepfather's name 'Ser' as his father's name. The plaintiff thus applied under reg. 14 of the National Registration Regulations 1990 ('1990 Regulations') for a change of name to
G show that he goes by the name Chris Jeremy Ser Zhe Ahn. The application was refused and no reasons were given by the panel established by the Department for refusing the application. As a result, the plaintiff filed this originating summons for a declaration that his name in his identity card be changed from Chris Jeremy Lai Zhe Ahn to Chris Jeremy Ser Zhe Ahn.

H **Held (granting declaration and consequential relief sought):**

**(1)** An application to register the change of name must be made pursuant to reg. 14 of the 1990 Regulations. All that a person needs to do when he changes his name is to inform the Department and apply for a change in name according to reg. 14 read with reg. 4 of the 1990 Regulations.
I So long as the reason was not illegal, the defendant had to give effect to the change in name sought, where all the requirements of reg. 14 read with reg. 4 of the 1990 Regulations are met. The plaintiff had sworn a

statutory declaration renouncing the use of the name Chris Jeremy Lai Zhe Ahn as he had disowned his biological father. There was nothing that barred the plaintiff from seeking a change of his name in his identity card as he was entitled in law to seek a declaration of his right for a change in name by way of OS. Hence, the plaintiff was allowed to change his name in accordance with the 1990 Regulations. (paras 10-12 & 15)

**Case(s) referred to:**
*Diesel SpA v. Bontton Sdn Bhd [2021] 2 CLJ 65 CA* ***(refd)***
*YAB Dato' Dr Zambry Abd Kadir & Ors v. YB Sivakumar Varatharaju Naidu; Attorney-General Malaysia (Intervener) [2009] 4 CLJ 253 FC* ***(refd)***

**Legislation referred to:**
Births and Deaths Registration Act 1957, s. 13A
National Registration Act 1959, s. 6
National Registration Regulations 1990, regs. 4, 14(6)
Specific Relief Act 1950, s. 41

*For the plaintiff - Lok Hon Jet & Heng Aik Sze; M/s Rozlan Khuen*
*For the defendant - Na'ilah Ilham Shamsulbahri; DPP*

*Reported by S Barathi*

## JUDGMENT

**Amarjeet Singh Serjit Singh J:**

### Introduction

**[1]** The plaintiff filed this originating summons seeking a declaration that his name in his identity card be changed from Chris Jeremy Lai Zhe Ahn to Chris Jeremy Ser Zhe Ahn and a consequential order that the registration department gives effect to the order once it is made.

**[2]** On 21 September 2022, I allowed the originating summons. I now give my reasons for the decision.

### Background

**[3]** Arnold Aiden Lai Keen Jung is the biological father of the plaintiff. His mother, Eunice Tan Yu-Ti and his father were granted a divorce on 5 November 2007 when he was four years old. The plaintiff since then lived and continues to live with his mother. The plaintiff and his father stopped communicating with each other in 2010. The plaintiff was then eight years old. On 9 March 2014, his mother married Ser Chai Seong who moved in and lives with her and the plaintiff at B4-16-2, Urbane Tower, Solaris Dutamas, Jalan Dutamas 1, Kuala Lumpur.

**[4]** The divorce affected the plaintiff's childhood as he was brought up without the love, affection and care of his father. The relationship between father and son has deteriorated to the extent that there is nothing left. They are so estranged except by blood and name. On the other hand, the plaintiff has received love and affection from his stepfather who treats him like his own son. The plaintiff has renounced his father's name and rejected any inheritance from his father and has taken his stepfather's name "Ser" as his father's name, his own reasons as it makes him feel inclusive as a family.

**[5]** So, he applied under reg. 14 of the National Registration Regulations 1990 for a change in his name *ie*, to show that he goes by the name Chris Jeremy Ser Zhe Ahn. According to the affidavit of the legal advisor of the Department, a panel established by the Department refused the application made by the plaintiff. No reasons were given by the said panel for refusing the application. As a result of the refusal the plaintiff filed the instant originating summons seeking a declaration with regards to his name he wants to go by.

**Analysis And Decision**

**[6]** The reason for the refusal of the application appears to be stated by the legal advisor of the Department who affirmed the affidavit in reply for the defendant. The reason is stated in the following paragraphs of the affidavit in reply as follows:

> 11. Saya sesungguhnya menyatakan bahawa nama keluarga yang didaftarkan hendaklah nama bapa kandung dan ini adalah selaras dengan peruntukkan seksyen 13A Akta Pendaftaran Kelahiran dan Kematian 1957 [Akta 299]
>
> 12. Saya sesungguhnya percaya dan menyatakan bahawa permohonan plaintif untuk menukar nama adalah tidak dibenarkan dalam peruntukkan undang-undang yang dinyatakan di atas dan tidak memenuhi syarat-syarat yang ditetapkan dalam Akta 299.

**[7]** The reason given by the legal advisor of the Department is misconceived in law. The plaintiff was not applying to change his particulars of his birth certificate. Therefore, s. 13A of the Births and Deaths Registration Act 1957 or any other section therein is not relevant. The Births and Deaths Registration Act 1957 concerns the registrations for births or deaths and not the identity card of a citizen. The identity card of a citizen is governed by the National Registration Act 1959.

**[8]** The rejection of the plaintiff's application by the defendant *albeit* by the panel was therefore based on a fallacy. The defendant cannot now rely on a new reason in submissions with regard to the National Registration Regulations 1990 unless the application of the plaintiff is something prohibited by law. The reliance of such new reason except for illegality

would be in bad faith. The defendant is in charge of the National Registration Department and must carry out his functions in good faith. The different reason being proffered now in the written submissions of the defendant is obviously an afterthought and I unhesitatingly disregard the same. In any event, it suffices to say the new reason is not something prohibited by law.

**[9]** I return to the declaration sought by the plaintiff. This is a declaration of the plaintiff's status or name which the plaintiff is entitled to in law. The law provides that if a citizen is seeking to register his change of name such application must be made pursuant to reg. 14 of the National Registration Regulations 1990 (made under s. 6 of the National Registration Act 1959). The relevant provisions of reg. 14 provides as follows:

> (1) A person registered under these Regulations who:
>
> (a) changes his name;
>
> (b) ...
>
> shall forthwith report the fact to the nearest registration office and apply for a replacement identity card with the correct particulars.
>
> (2) Any person registered under these Regulations who applies to change his name under subregulation (1) shall submit to the registration officer a statutory declaration which
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> (a) certifies the fact that he has absolutely renounced and abandoned the use of his former name and *in lieu* thereof has assumed a new name; and
>
> (b) contains the reasons of such change of name, other than a conversion of religion.

**[10]** There is nothing in the case at hand that bars the plaintiff in seeking a change of his name in his identity card. The so-called panel cannot stop the plaintiff from doing so. The function is purely administrative as only the compliance of the regulations is required. There is no discretion or power involved in this exercise unless the change in name is prohibited by the regulations. All that person needs to do when he changes his name is to inform the Department and apply a change in name according to reg. 14 read with reg. 4 of the National Registration Regulations 1990 which read as follows:

> Any person who:
>
> (a) ...
>
> (b) ...
>
> (c) applies for a replacement identity card under regulation 13 or 14, shall:
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> (aa) forward two copies of his photograph to the registration officer or permit the registration officer to take his photograph, as the case may be;

(bb) submit to all such steps as may be reasonably necessary:

(i) for the taking of his photograph; and

(ii) for the taking and recording of his fingerprints impressions, in accordance with any instructions given by the registration officer; and

(cc) give the following particulars to the registration officer:

(i) his full name as appearing in his Certificate of Birth or such other document, and if he is known by different names, each of such names in full;

(ii) his previous identity card number, if any;

(iii) the full address of his place of residence within Malaysia;

(iv) his race;

(v) his religion;

(vi) his place of birth;

(vii) his date of birth and sex;

(viii) his physical abnormalities, if any;

(ix) his citizenship status, whether a citizen of Malaysia or a citizen of any other country;

(x) particulars of his driving licence, if any;

(xi) particulars of his passport, if any;

(xii) any other particulars as the registration officer may generally or in any particular case consider necessary for the purpose of identification; and

(xiii) any other documentary evidence as the registration officer may consider necessary to support the accuracy of any particulars submitted.

**[11]** The plaintiff has sworn a statutory declaration renouncing the use of the name Chris Jeremy Lai Zhe Ahn. His reason is that he has disowned his biological father. Whatever the reason is, so long as it is not illegal, the defendant has to give effect to the change in name sought where all the requirements of reg. 14 read with reg. 4 of the National Registration Regulations 1990 are met. Regulation 14(6) raised in the defendant's submissions is clearly not applicable in the case at hand. I will say nothing more on it.

**[12]** The plaintiff is, in the circumstances, entitled in law to seek a declaration of his right for a change in name by way of originating summons. The plaintiff has already renounced his biological father's name and goes by the name of Chris Jeremy Ser Zhe Ahn. In such circumstances the plaintiff

is not restricted to the remedy of judicial review. A declaration of his right is the best and efficacious remedy under s. 41 of the Specific Relief Act 1950 which provides as follows:

> Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to the character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in that suit ask for any further relief.

**[13]** If authority is needed, one only need to refer to the Federal Court case of *YAB Dato' Dr Zambry Abd Kadir & Ors v. YB Sivakumar Varatharaju Naidu; Attorney-General Malaysia (Intervener)* [2009] 4 CLJ 253; [2009] 4 MLJ 24 where it was held:

> [26] However, whatever restriction there may be on the use of O. 15 r. 16 it will not apply where a person seeks to assert, *inter alia* his rights to a legal status.
>
> This is statutorily recognised in the form of s. 41 which read as follows: Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to the character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in that suit ask for any further relief: Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration or title, omits to do so.

**[14]** Further, the Court of Appeal case of *Diesel SpA v. Bontton Sdn Bhd* [2021] 2 CLJ 65; [2021] 4 MLJ 32 is instructive. There it was held that:

> The right to use one's own name in one's goods was a legal entitlement or a right in law which satisfied the meaning of the term 'legal character' in s. 41 of the SRA since all that was required was that the character, nature, status or position was one that was recognised in law. Not only had the appellant more than satisfactorily met the conditions in s. 40(1)(a) of the TMA and s. 41 of the SRA, it was in the interests of justice and fairness that the appellant be entitled to use its own name in its own goods and be granted the declaration of non-infringement (see paras 145-146)

**[15]** In the circumstances, the plaintiff is allowed to change his name in accordance with the said regulations and I so grant the declaration and consequential relief sought.